

II. Remarks

To highlight the distinction of the above referenced invention over the prior art as interpreted by the Examiner in the Office Action of March 1, 2011, Paper No. 20110225, the claims were amended as set forth herein. Claims 1, 5, 21, 25, 41, and 45 were amended to more clearly define the subject matter of the invention and to place all of the claims remaining in the application in condition for allowance.

In the Office Action, the Examiner rejected Claims 1-6, 8-26, 28-46, and 48-60 under 35 USC §103(a) as being unpatentable over the teachings of Raveis, U.S. Publication No. 2002/0049624 in view of the teachings of Watanabe, Japanese Patent No. 2001-274946, and the teachings of Ouchi, U.S. Patent No. 5,675,421. Applicant's attorney respectfully traverses each of the 35 USC §103 rejections set forth herein in view of the claims as amended and for the reason that Applicant's invention is not an obvious improvement over the prior art.

With respect to the rejections under 35 USC §103, it is noted in MPEP §706 that the standard of patentability to be followed in the examination of a patent application is that which was enunciated by the Supreme Court in *Graham v. John Deere*, 148 USPQ 459 (1966), where the Court stated:

“Under Section 103, the scope and the content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.”

Accordingly, to establish a prima facie case of obviousness, the Patent Office must: (1) set forth the differences in the claim over the applied references; (2) set forth the proposed

modification of the references which would be necessary to arrive at the claimed subject matter; and (3) explain why the proposed modifications would be obvious. To satisfy step (3) above, the Patent Office must identify where the prior art provides a motivating suggestion, inference or implication to make the modifications proposed in step (2) above. *In re Jones*, 21 USPQ2d 1941(Fed. Cir. 1992).

The mere fact that the prior art may be modified by the Examiner does not make the modification obvious unless the prior art suggests the desirability for the modification. *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). In the present case, the Examiner has failed to make a proper prima facie showing of obviousness since the Examiner has failed to show how the prior art suggests the desirability of the proposed modification.

Raveis, U.S. Patent Publication No. 2002/0049624 was cited by the Applicants upon the filing of their application, and is directed to the shortcomings of business models for real estate companies that fail to maintain customer relations and leave a homeowner trying to manage repairs and improvements with little more than a telephone book for assistance (§ 0014).

To prevent these problems, Raveis teaches an improved system and method of using a distributed computer network to facilitate managing customer relationships and the information pertaining thereto in a real estate transaction (§ 0016). In particular, the system and method provides for storing data relating to and coordinating the multitude of tasks associated with the estimated completion date versus actual completion date for stages of a real estate transaction (see Raveis, abstract). The method includes the steps of generating a customer record including data entry fields for entering an estimated completion date and an actual completion date for each of a plurality of stages of a real estate transaction; providing a customer access to the customer

record over a distributed computer network to facilitate the entry, by the customer, of estimated and actual completion dates for the stages of the real estate transaction (§ 0018); providing a real estate agent access to the customer record over the distributed computer network to facilitate the entry, by the real estate agent, of estimated and actual completion dates for various stages of the real estate transaction (§ 0018); providing a transaction coordinator access to the customer record through a server based application to facilitate the entry, by the transaction coordinator, of estimated and actual completion dates for stages of the real estate transaction in appropriate fields of the customer record (§ 0018); indicating, in an appropriate field of the customer record, an identity of the entrant of an actual completion for a stage of the real estate transaction; and providing a hyperlink from the customer record to a site of a marketing partner associated with a stage of the real estate transaction (§ 0018).

Raveis further teaches a similar method to provide an entity access to the customer records, to facilitate entry, by the entity, of estimated and actual completion dates for stages of real estate transactions in appropriate fields of the customer record, wherein the entity is selected from the group consisting of a customer, real estate agent and transaction coordinator; and indicating, in an appropriate field of the customer record, the identity of the entity that entered an actual completion date for a stage of the real estate transaction (§ 0019). Further, Raveis teaches that the distributed computing network maybe the internet.

Raveis further teaches that transaction tracking involves a series of activities or tasks related to the home sale or home purchase process. Schedules are developed to define a time table, track completed items and include related information, i.e. the transaction tracking process. These schedules are completely different for the home sale and home purchase process. The

process of transaction tracking can be classified into distinct stages (§ 0021). Customizable transaction tracking templates allow a combination of different stages to be included within each schedule. The stages included within the transaction process can be contingent upon a number of factors. Some of these factors include, but are not limited to, whether a transaction is a home sale or purchase, real estate practices within specific geographic areas, federal, state and local laws, or real estate broker preferences (§ 0021).

In summary then, it is clear that Raveis's teachings are basically limited to providing access to a customer and a real estate agent to the customer record to fields for entering an estimated date and an actual completion date for each of a plurality of stages of the real estate transactions over the distributed computing network to facilitate entry of estimated and actual completion dates for stages of real estate transactions.

Watanabe is directed to labor burdens and compromised conservation goals because a document to be faxed must first be printed out and then transmitted using a fax machine (6) to transmit the document to a destination fax machine (7). (Page 1, Summary; Fig. 5) As a solution to this problem, Watanabe teaches transmitting a special cover sheet having receiver ID information and being attached to the document to be faxed. In accordance with these teachings, Watanabe discloses an electronic filing method. First, a special cover sheet is set into an image scanner (30) (Fig. 1; Fig. 2, ST1; § 0024). Second, image information on the special cover sheet is acquired into an electronic terminal (23) (Fig. 1; Fig. 2, ST2; § 0025). Third, a communications document (e.g. letter, etc) is imaged at the same time as the special cover sheet (Fig. 3, ST3; § 0025). Fourth, a client using the electronic terminal outputs a transmission request to a fax server (30) (Fig. 1; Fig. 2, ST4; § 0026). Fifth, a reply is received affirming

acceptance of the transmission (Fig. 2, ST5; ¶ 0026). Sixth, image information from the special cover sheet is attached to the image information on the communications document, and then output to the fax server (Fig. 2, ST6; ¶ 0026). Seventh, the fax server transmits the image information to a DSP electronic filing device (12) (Fig. 1; Fig. 2, ST7; ¶ 0026). Eighth, the image information is received (Fig. 2, ST8; ¶ 0027). Ninth, the fax server executes a routine for decoding the receiver ID information scripted on the special cover sheet (Fig. 2, ST9; ¶ 0027). Tenth, the fax server specifies a document storage area for a receiver (client) at an electronic filing server (29) and stores the image information of the communications document in the document storage area (Fig. 1; Fig. 2, ST10; ¶ 0028). Eleventh, the fax server issues a reception notice to an electronic terminal (26) being operated by the receiver (client) (Fig. 1; Fig. 2, ST11; ¶ 0029).

Ouchi, U.S. Patent No. 5,675,421, is directed to problems associated with the use of a facsimile transmission where the prior art is only capable of receiving image data of incoming facsimile transmissions when the facsimile reception is in a “possible condition.” If the facsimile reception is in an “impossible condition” the prior art facsimile machine is incapable of receiving image data of incoming facsimile transmissions.

To solve this problem, Ouchi teaches to provide a facsimile machine wherein regardless of whether the facsimile machine is capable of receiving facsimile transmissions, reception processes are performed during the remote operation mode of the facsimile machine, thereby increasing convenience of the remote operation mode to callers. Ouchi accomplishes such objective by providing a remote operation mode enabling a caller from a remote device to access and retrieve data from the facsimile machine, includes a memory for storing the data to be

accessed and retrieved by a caller during the remote operation mode; as well as a switching means for turning on and off the remote operation mode; facsimile reception determination means for determining which of a facsimile reception possible condition and a facsimile reception impossible condition that defects any machine as in; and reception process means for performing when the facsimile reception determination means determines that the facsimile machine is in a facsimile reception possible condition, reception of an incoming call regardless of whether the switching means has turned the remote operation mode on or off and for performing reception of the incoming call when both the facsimile reception determination means determines that the facsimile machine is in facsimile reception impossible condition and the switching means has turned the remote operation mode on. Ouchi teaches that this is accomplished in the remote operation mode wherein a caller from a remote operation can retrieve data stored in memory of the RAM. The remote operation mode can be set by switching on the remote operation mode on/off switch 23 provided to the operation portion 9. The fax includes a mailbox function wherein the caller accesses one of the mailboxes using a remote telephone or a facsimile machine. Then the caller can either transmit voice data or image data, and store it in the mailbox or by entering from the remote telephone or facsimile machine a preset password corresponding to the accessed mailbox, can retrieve voice data, image data, or both pre-stored in the mailbox. In effect, the mailbox function allows anyone from a remote place to store data into a selected mailbox. However, only people who know the password for the mailbox can retrieve data from the mailbox from a remote place. That is, the data stored in the mailbox is confidential. Note that Ouchi nowhere discloses that a prompting for a unique identification number.

Applicants' invention is directed to problems associated with a real estate process, i.e. buying or selling a home or business, which is typically accomplished through an assortment of communication mediums that are not integrated and often not in digital form. Also, in accomplishing this assortment of communications, realtors find themselves carrying out a variety of manual tasks, coordinating schedules of various parties involved in the process or personally delivering and dropping of documents to complete the process. Such traditional process requires a realtor to spend an inordinate amount of time actively managing mundane details, instead of spending time with more rewarding and value added responsibilities like counseling their clients, the marketing of properties, networking with other real estate professionals, and cross-selling real estate related services.

Numerous prior art real estate project managements offer packages that have been recently developed but present incomplete solutions, in that, they do not address all tasks within all phases of the real estate transfer process from prelisting to post-listing. Most available prior art technology do not provide a comprehensive approach to facilitating the handling and storing of documents throughout the entire real estate transfer process according to existing real estate industry practices, wherein a real estate professional such as a broker, orchestrate all activities associated with the transfer.

Accordingly, Applicants teach automating the process of transforming real estate through the use of a centralized system and method for automating the process of transferring real estate. The invention is performed on one or more servers and is carried out over a distributed computer network that is connected between servers and a plurality of client computers. Applicants teach as set forth in the independent claims, that a real estate document routing number in the form of a

unique identification number is created on the server and information is received from a plurality of sources including real estate databases, computer input devices, facsimile equipment, electronic mail systems, and the like. The received information is then associated with the real estate record identity using a document routing number associated with the real estate record identity and thereafter all of the information concerning the handling and storing of documents throughout the real estate transaction process is stored on the server according to the document routing number. In one embodiment of the present invention, the information is received by receiving a faxed communication from any fax source that is capable of contacting the server irrespective of the faxed number of the fax source. In other words, the server need not recognize a faxed number of the fax source. More importantly, the invention includes server software that voice prompts a sender of the faxed communication to input the real estate unique document routing number into the fax source.

This is accomplished by using the fax key pad which the user then uses to input the document routing number. Once the document routing number is input by the fax sender it is recognized by the server, and the server software is capable of converting the faxed communication into a digital document directly that represents the information to be associated and stored. The server software then determines whether the input document routing number matches any of the number of real estate record identities that are stored on the server. If this determination is negative, then the digital document is discarded, but if it is positive, then the digital document is saved on the server and accord with its matching real estate document routing number.

A similar process is used in receiving email communication associated with the real estate transfer. Accordingly, the system and method for automating real estate transfers is able to be controlled by a broker such that all communications associated with the real estate transfer can be stored in a real estate record identity using the document routing number as a unique identification number on at least a server and carried over the distributed computer network to a plurality of client computers. The real estate broker can restrict third party participation in the real estate transfer, as well as establish calendar templates to be used by real estate agents, as well as limit the various parties associated with the real estate transfer to access the system so that these may actively participate in the automated transaction simply by using either a fax machine or direct access through the internet with the document routing number in hand. As is clearly set forth, Applicants further teach in conjunction with the use of the real estate transfer system, a tiered security level for the various users of the real estate transfer process. By providing access to any entity associated with the transfer of real estate, through the use of the document routing number a complete history of the transaction process is obtained on the server and all documents are stored and open to inspection by those having proper security status.

The differences between Applicants' invention and the prior art references cited by the Examiner in the rejection under 35 USC § 103 are quite clear. The solutions taught by each of the references are directed to problems somewhat different than that disclosed by Applicants' invention. For example, Raveis is directed to the problems associated with managing customer relations in real estate transactions. Accordingly, a customer record (not a real estate record identity in the form of a document routing number) is generated in Raveis but it only contains fields to enter estimated completion and actual completion dates for each of a plurality of

identified stages of real estate transactions. Nowhere in Raveis is it taught to identify all documents with a document routing number so as to enable storing of a variety of document on appropriate servers. Further, Watanabe is directed to problems associated with the use of documents needed to be transferred via facsimile to a file server. The prior art required that it was first necessary to print out the document and then transmit the document to the destination facsimile by using an initiation facsimile. Accordingly, a significant labor burden was required in accomplishing this process. To avoid this process, Watanabe teaches the use of a special cover sheet on which receiver ID information for identifying receivers is scripted. The cover sheet is attached to the fax and transmitted via fax, as well as received by a fax. The receiver ID information scripted on the special cover sheet is decoded, and after the document storage area for the corresponding receiver has been specified by the receiver ID information on the special cover sheet, the corresponding communication document is stored in the document storage area.

On the other hand, Ouchi is directed to a problem identified with prior art fax machines wherein unless the receiving fax was in a facsimile reception "possible condition" communication with such facsimile was not possible.

Ouchi solved the problem by providing a facsimile reception determination unit for determining which of a facsimile reception possible condition and a facsimile reception impossible condition that the facsimile machine was in. Ouchi further proposes a reception process unit for performing a reception of an incoming call regardless of whether the facsimile is in impossible or possible condition by using a remote operation mode switch. Ouchi teaches the receiving of data and images or voice-signal in designated mailboxes by entering a preset password corresponding to the accessed mailbox.

If, as the Examiner suggests, Raveis. is combined with the teachings of Watanabe and/or the teachings of Ouchi in an attempt to obviate Applicants' invention, it is clear from the teachings set forth in Raveis as well as Watanabe and Ouchi that the suggested combination could not result in Applicants' invention and would in fact require extensive additional structure in an attempt to acquire similar results. Even if accomplished, it must be pointed out that if the teachings of Raveis are combined with the teachings of Watanabe the resulting effect would be a method of tracking estimated completion dates versus actual completion dates for stages of a real estate transaction over a distributed computer network consisting of generating a customer record with entry fields for entering only estimated completion and only actual completion dates for each of a plurality of stages of a real estate transaction and then associating therewith receiving fax communications having a special cover sheet incorporating thereon receiver ID information for identifying receivers as well as adding additional structure as taught by Ouchi, that is a facsimile reception determination unit and a reception process unit for performing reception of an incoming call regardless of the state of use of the facsimile. However, Raveis completely fails to define a receiver ID in any way, shape, or form. What is exactly to be done with this faxed communication is certainly not clear from the teachings of Raveis, Watanabe, or Ouchi, in that, Raveis makes absolutely no disclosure with respect to how this faxed communication is to be accommodated into the real estate transaction system by the server software in the form of an estimated or actual completion date of what? Further Watanabe's receiver ID may or may not be an identification and certainly is not a document routing number or unique identification number. Accordingly, even if the teachings of Watanabe and/or Ouchi were combinable with the

teachings of Raveis it would still require a special cover sheet for faxed communications which is needed to be decoded by the file server network so that it may be stored thereon.

The Examiner's comments with respect to independent Claims 1, 21, and 42 under the rejection under 35 USC §103(a) is not well taken. For example, the Examiner interprets the Raveis' teaching as an automated phase of real estate transfer (storing data related to and coordinating the multitude of tasks associated with the purchase of or a sale of a property from the contract to close). Frankly, this is an incorrect interpretation of the Raveis' teachings in that Raveis teaches only the task of entering an actual completion date for each of a plurality of stages of a real estate transaction and compare such completion date to an estimated completion date of that specific stage. Other than that, Raveis' teachings are limited to only establishing a field for estimates and actual completion dates for various stages of a real estate transaction. Raveis nowhere teaches the method for automating the transfer of real estate by providing a centralized server connected to a distributor computer network that is connected between a plurality of client computers and wherein a real estate record or unique identification number is created over the centralized server so that all of the information generated during the complete phase of a realty transfer can be automatically exchanged between the various users and stored on the centralized server by the use of a unique identification number. Therefore, the interpretation given by the Examiner to the teachings of Raveis is grossly exaggerated by reading into Raveis the teachings of Applicants' invention. Also, the fact that Watanabe teaches the capability and concept of receiving and sending information via fax does not provide to a person skilled in the art the information necessary in order to teach Applicants' invention. For example, according to the Examiner, Watanabe teaches assigning a unique identity number to a record in a database. This

language cannot be found in Watanabe. What Watanabe indeed teaches is the use of a cover sheet for a facsimile transmission document on which a receiver ID is found which consists of information for identifying receivers not real estate transactions. Nowhere does Watanabe disclose that this is a unique identification number. Further, nowhere does Watanabe teach that there is voice prompting to the sender to input the unique record identifier. From this limited teaching, the Examiner concludes that it is old and known technology for prompting a user to solicit input from the user (user's are guided on using the system by voice prompting them to solicit appropriate input, e.g. in voicemail, users are prompted step-by-step to inform them how to store messages for a particular user mailbox or retrieve voicemail by prompting users to provide their mailbox ID and password). Yet, no reference has been cited by the Examiner for this "old and known technology." The Examiner readily admits that Watanabe does not teach whatever the Examiner considers as "well known" without a citation of prior art which makes this well known technology. Accordingly, the undersigned respectfully submits that the rejection under 35 USC §103 does not follow the requirements of M.P.E.P § 706.02(j) guidelines which states:

"After indicating that the rejection is under 35 USC § 103, the Examiner should set forth in the Office Action . . . (B) the difference or differences in the claim over the applied reference(s), (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and (D) an explanation of why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification . . . The teaching or suggestion to make the claimed combination and the reasonable expectation of the success must both be found in the prior art and not based on applicant's disclosure." *In re Vacek*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As discussed in detail below, Applicants respectfully submit that there is no teaching or suggestion in Raveis, Watanabe, or Ouchi that their teachings may be combined so as to provide the present invention as recited in the claims and such motivation only comes from Applicants' disclosure. This approach constitutes impermissible hindsight and must be avoided.

Here, the Office Action does not set forth proposed modifications of the applied references. The Office Action merely asserts that it would be obvious "to modify Raveis as taught by either Watanabe or Ouchi..." But Watanabe or Ouchi does not even mention Raveis; much less teach any modifications to Raveis. Notably, the Office Action does not propose any specific modifications of each of the Raveis, Watanabe, or Ouchi references, as required under M.P.E.P. § 706.02(j), that would be necessary to successfully combine the references to arrive at the claimed subject matter. Applicants assert that this failure is evidence that such a combination is not reasonably desirable or feasible, which militates against the obviousness rejection of Applicants' invention. In any case, the Office Action does not adequately communicate the basis for the obviousness rejection such that Applicants have not been given a full and fair opportunity to develop a reply. In other words, the Examiner has not articulated a sufficient reason why one skilled in the art would have modified the prior art and arrived at the presently claimed subject matter. Therefore, Applicants respectfully assert that the Examiner has not met his burden of articulating a prima facie case of obviousness.

In view of the Board's decision of February 19, 2010 as well as the Board's decision on the Request for Rehearing on July 9, 2010, the claims were amended to more clearly set forth the invention. In the Board's decision, the Board improperly interpreted that the record identifier

assigned to each real estate record may be any field in the customer record. This is contrary to the specification as set forth in paragraph number 134 which unequivocally states the following:

“Each property listing is assigned a **unique** record identifier or identification number. This record identifier becomes known as the Document Routing Number (DRN) for Digital Document Management (DDM).” (emphasis added)

Therefore, the Board concluding that any “field in the customer’s record, such as an address, which is unique (FF7)” as support for its finding, is erroneous. A person skilled in the art will recognize that an address is not a unique identification number if that number is to be used in conjunction with a fax keypad. It is well known that the fax input relies on a tone to identify the input. Therefore, the tone for the numeric character 1 represents the alpha characters A, B, or C. Since an address will always have alpha characters when these are input into a fax keypad the receiving fax cannot distinguish when 1 is pressed whether it represents an A, B, or C. Therefore, an address field cannot be relied on as a unique field for practicing the present invention. Further, the Board cited finding of fact 7 which refers to Raveis paragraph numbers 17 and 18 as support therefore is also erroneous. In reviewing these paragraphs, it is clear that they provide no support whatsoever for such finding since the records generated in Raveis are entries for entering an estimated completion date and an actual completion date for each of a plurality of stages of real estate transactions. This information is not unique nor is it a unique real estate record or identification number.

Further, the Board, in its decision, concluded that “with regard to the prompting step, we find that a user is always prompted to initiate a fax transmission.” No authority or finding of fact was cited for this statement.

A user of a fax is generally prompted to put in a fax phone number before making a fax. The independent claims have been clarified to make clear that this prompting step is a “voice prompting” to the sender to input the unique record identifier or identification number after inputting a fax phone number. This is supported by the specification at page 48, lines 26-27. The comment by the Board regarding the prompting step is not supported by law or fact of the specification nor is it understood by the undersigned. The voice prompting step eliminated the need for a cover sheet on the fax used by Watanabe. Therefore, Applicants’ invention teaches contrary to Watanabe the elimination of the special cover sheet designed to decode the receiver ID.

Accordingly, the independent claims as amended now teach the structure for two features not found in the prior art, that is, a unique record identifier or identification number known as the document routing number (DRN) as well as eliminates Watanabe’s need for a prior cover sheet designed to decode the receiver ID since it voice prompts the sender to enter the unique document routing number also known as the unique record identifier or unique identification number after the fax number has been dialed.

A final comment must be made with respect to the combination of either Watanabe or Ouchi with the teachings of Raveis. Even if the structure of the Watanabe fax could be changed as proposed by the Examiner to receive the Watanabe fax, it is important to note that the only thing that Raveis is looking for is either an actual completion date for a stage in the realty process or an estimated completion date. Therefore, even if Watanabe could communicate with Raveis, Raveis cannot receive the fax and store it as part of the real estate process. It clearly teaches only

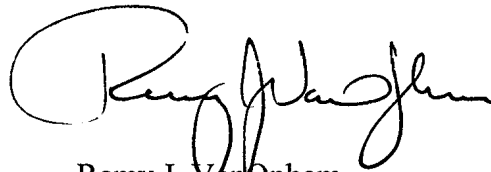
the maintenance of actual as well as estimated completion dates for several stages of the realty process.

For the above reasons, the claims are now in condition for allowance and formal allowance is respectfully requested.

If the Examiner has any questions with respect to any matter now of record, Applicants' attorney may be reached at (586) 739-7445.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



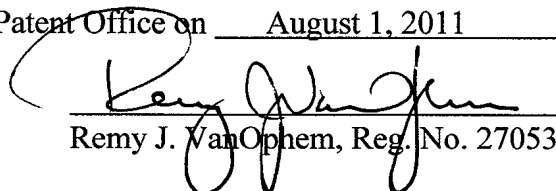
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Certificate under 37 CFR §1.8(a)

I hereby certify that this Reply to Office Action and Amendment under 37 CFR §1.111 is being electronically filed in the U.S. Patent Office on August 1, 2011.

Date: August 1, 2011



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